REMARKS

Claims 1-40 are pending in the application. Claims 1-13 and 19-30 are under consideration in the application, the remaining claims having been subjected to either a restriction requirement or an election of species requirement. Applicant respectfully requests reconsideration of the application based on the following remarks and the foregoing amendments. An early action allowing these claims is respectfully solicited.

Applicant notes with gratitude the Examiner's indication that claims 1-13, 19 and 30 would be allowable if rewritten or amended to overcome the rejections under Section 112. Applicant has amended claim 1, and considers that as a result claims 1-13 and 19 are allowable. Applicant respectfully submits that claim 30 is also allowable for the reasons set forth below with respect to claim 20, upon which claim 30 ultimately depends.

The Amendments:

The Abstract has been amended to overcome the Examiner's objection.

The specification has been amended at pages 3 and 7 to insert reference to the new drawing Fig. 10, which is added in response to the Examiner's request.

The specification has been amended at page 14 to correct a typographical error in referring to the indicia shown in Figs. 8a and 8b. In addition, a proposed drawing change to Fig. 8a is submitted herewith to correct this error in Fig. 8a, which is shown correctly in Fig. 8b.

Claims 1 and 20 have been amended.

The Rejections:

(A) Rejection under 35 USC §112.

Claims 1-13 and 19-30 stand rejected under 35 USC §112, second paragraph, as being indefinite. In particular, the Examiner rejected claims 1 and 20 for lack of antecedent basis for particular terms therein. The asserted lack of antecedent basis arose in both cases from a typographical error. Each of claims 1 and 20 has been amended to overcome the rejections thereof on this ground. Specifically, claim 1 has been amended to insert the term "layer" after "heat-activatable" in line 8 of the original claim 1. Claim 20 has been amended to remove the term "layer" after "said laminating adhesive" in line 5 of original claim 20. Applicant submits that these amendments overcome the asserted lack of antecedent basis in claims 1 and 20. In view of the above amendment to these claims, Applicant believes and submits that these rejections have been overcome and should be withdrawn.

Claim 23 was rejected on the basis that:

> the applicant discloses in the specification that the face stock can be made of thermoplastic film and not the heat-activatable adhesive.

Applicant respectfully submits that claim 23 refers to said "heat-activatable layer", and is fully supported in the specification. See, e.g., page 5, lines 17-25. Applicant respectfully submits there is no indefiniteness in claim 23, and that this rejection should be withdrawn.

(B) Claims 20-27 stand rejected for obviousness-type double patenting over U.S. Patent Nos. 6,228,486 and 6,461,722.

The Examiner asserted that claims 20-27 are not patentably distinct from claims 1-27 of the '486 patent, and are not patentably distinct from claims 1-38 of the '722 patent. The Examiner indicated that this rejection could be overcome by the filing of a terminal disclaimer. Attached are two terminal disclaimers, one being for the '486 patent and the other being for the '722 patent. These terminal disclaimers should be sufficient to overcome the rejection.

Applicant respectfully requests withdrawal of the rejection of claims 20-27 for obviousness-type double patenting over claims in the '486 and '722 patents.

(C) Claims 20-27 stand rejected Under 35 U.S.C. §102(e) as anticipated by U.S. Patent Nos. 6,228,486 and 6,461,722.

Claims 20-27 stand rejected as anticipated by the '486 and the '722 patents. Claim 28 was not rejected over either of these references. Applicant has amended claim 20 by merging it with claim 28. Accordingly, withdrawal of the rejection of claims 20-27 as anticipated by the '486 and '722 patents is believed to be warranted and is respectfully requested.

(D) Claims 20-27 stand rejected under 35 U.S.C. §102(b) as anticipated by U.S. Patent No. 5,595,810.

Claims 20-27 stand rejected as anticipated by the '810 patent. As indicated above, claim 20 has been amended by merging it with claim 28. Since claim 28 has not been rejected for anticipation by the '810 patent, Applicant respectfully submits that this rejection has been obviated. Withdrawal of the rejection is requested.

Objection to the Drawings.

The Examiner objected to the drawings on the basis that the elements of figures 7a, 7b, 8a and 9a must be embraced by a bracket, and that the drawings fail to show the features of claims 10 and 19.

With respect to Figs. 7a, 7b, 8a and 9a, Applicant respectfully submits that the "separated parts" therein are not separated, i.e., exploded, parts, but instead are parts which have not yet been joined together. Applicant respectfully submits that the Examiner's requirement that the parts shown in these drawings be embraced by brackets is not in accordance with the requirements of 37 CFR 1.84. Specifically, 37 CFR 1.84(h)(1) states:

> Exploded views, with the separated parts embraced by a bracket, to show the relationship or order of assembly of various parts are permissible. When an exploded view is shown in a figure which is on the same sheet as another figure, the exploded view should be placed in brackets. (Emphasis added.)

First, the parts shown in these figures are not "exploded views" in the usual sense that a complex, assembled structure is shown in an exploded view to make clear the relationship between its various parts. In Figs. 7a, 7b, 8a and 9a, the layers shown are relatively simple parts which have not yet been assembled, and include parts which are to be removed during or after the assembly. The Figs. 7a-7c, 8a-8b and 9a-9c illustrate a series of steps in assembling a structure including some of the illustrated parts, and are not exploded views.

Secondly, the Examiner's requirement is not in accordance with the above quoted Rule. The rule is quite clearly permissive, not mandatory. There is no requirement that even actually exploded views be placed in brackets, much less views such as in Applicant's Figs. 7a, 7b, 8a and 9a. Accordingly, Applicant respectfully declines to so amend Figs. 7a, 7b, 8a and 9a.

With respect to the features recited in claim 10, Applicant notes that claim 10 recites "wherein the identifying indicia comprises a radio frequency identification device." The disclosure at page 11, lines 20-22, states that the RFID is attached to the substrate or to the heat-activatable adhesive layer. An RFID is undoubtedly an identifying indicia. The indicia 710 in Figs. 7a-7c, indicia 806 in Figs. 8a-8b, and indicia 908 and 925 in Figs. 9a-9c are all identifying indicia. Thus, Applicant respectfully submits that a person of ordinary skill in the art would easily understand that the identifying indicia shown in Figs. 7a-7c, 8a-8b and 9a-9c could include an RFID. Accordingly, Applicant respectfully submits that no additional drawing need be submitted to specifically show an RFID as an example of identifying indicia, since the originally filed drawings adequately disclose identifying indicia at the location specified in claim 10 for placement of RFID identifying indicia and the specification clearly teaches that an RFID is both an example of such identifying indicia

and that it may be located at the same location specified in claim 10. For these reasons, Applicant respectfully requests the Examiner to withdraw this objection to the drawings and the requirement to submit an additional drawing.

With respect to the features recited in claim 19, Applicant submits herewith a proposed new drawing Fig. 10, which shows a laminate 1000 similar to the laminate 100 shown in Fig. 1, except that a tie layer 140 is shown between the heat-activatable adhesive layer 112 and the facestock 110. In furtherance of this response to the Examiner's requirement, the specification is amended to include reference to Fig. 10, at page 3, between original lines 5 and 6, and at page 7, between original lines 18 and 19. The Examiner is respectfully requested to enter Fig. 10 and to approve amendment of the specification to refer to this drawing. Applicant submits that neither Fig. 10 nor the amendment of the specification contain any new matter.

Drawing Corrections.

Applicant submits herewith a proposed correction to Fig. 8a, together with an amendment of the specification to make a corresponding correction. The requested drawing and specification correction is to replace reference numeral "706" in Fig. 8a, and in the specification at page 14, line 27, with the reference numeral "806". This reference numeral is correctly shown in Fig. 8b. Applicant submits that this is an easily recognizable typographical error, and that it would be so recognized by a person of ordinary skill in the art, and that it contains no new matter. The Examiner is respectfully requested to approve and enter this proposed drawing correction and specification amendment.

Information Disclosure Statement

The Examiner indicated that the IDS filed April 2, 2001 fails to comply with 37 CFR 1.98(a)(2), because Applicant cited two pending applications and did not provide copies thereof. Applicant notes that the first application cited in this IDS, USSN 09/167,087, subsequently issued as U.S. Patent No. 6,228,486, cited by the Examiner in the Office Action to which this paper is responsive.

APPENDIX

The amended paragraph shown above has been amended as follows:

In another embodiment, illustrated in Figs. 8a and 8b, laminate 820 is comprised of heat-activatable layer 812 adhered to transparent facestock layer 814. Laminating adhesive 816 adheres carrier layer 818 to facestock layer 814. A discontinuous layer of radiation curable adhesive 810 is applied to the bottom surface of heat-activatable layer 812. This discontinuous layer of radiation curable adhesive 810 holds pigmented layer 804 on to the heat-activatable layer 812. The radiation curable adhesive may be applied in a discontinuous pattern or may be comprised of small dots of adhesive. Pigmented layer 804 has been printed with indicia [706] 806 and adhered to heat-activatable layer 802. Upon the application of heat and pressure to the carrier layer 818, heat-activatable layer 812 bonds to substrate 800 and encloses heat-activatable layer 802, pigmented film 804 and covers discontinuous radiation curable layer 810. The finished article, as shown in Figure 8b comprises transparent facestock 814 adhered to pigmented film 804 with identifying indicia 806 by heat-activatable layer 812 around the perimeter of radiation curable adhesive 810. Pigmented layer 804 is adhered to substrate 800 by heat-activatable layer 802.

The amended Abstract shown above has been amended as follows:

[This invention relates to a livestock] Livestock identification tag assembly comprising: (a) a heat seal laminate comprising: (i) a facestock having an upper surface and a lower surface; (ii) a heat-activatable adhesive layer having an upper surface and a lower surface, wherein the upper surface of the heat-activatable adhesion layer is adhered to the lower surface of said facestock; (iii) an ink or graphics layer adhered to the lower surface of said heat-activatable layer; and (b) a flexible polymeric substrate; wherein the lower surface of the heat-activatable adhesive of the laminate is adhered to the substrate. In one embodiment, the ink or graphics layer is positioned between said heat-activatable adhesive layer and said facestock.

The amended claims shown above have been amended as follows:

1. (Amended) A livestock identification tag assembly comprising:

(a) a heat seal laminate comprising:

(i) a first facestock having an upper surface and a lower surface;

(ii) a heat-activatable layer having an upper surface and a lower surface, wherein the upper surface of the heat-activatable layer is adhered to the lower surface of said facestock; and

(b) a flexible polymeric substrate, having an upper surface; wherein the lower surface of the heat-activatable layer of the laminate is bonded to the upper surface of the substrate; and

(c) identifying indicia positioned between the heat-activatable layer and the flexible substrate.

20. (Amended) A heat seal laminate comprising:
a first facestock having an upper surface and a lower surface;
a heat-activatable layer adhered to said lower surface of said facestock;
a laminating adhesive overlying said upper surface of said facestock; [and]
a carrier layer adhered to said laminating adhesive [layer]; and
the heat-activatable layer having an upper surface and a lower surface, the upper surface of the heat activatable layer being adhered to said lower surface of said facestock, a layer of ink or graphics printed on the lower surface of the heat-activatable layer.